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## STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2014-15

Legistar #: 20140595

Board of Zoning Appeals Hearing: Monday, June 23, 2014 – 6:00 p.m.

Property Owner: George & Linda Brown  
332 Nelson Street, N. W.  
Marietta, GA 30064

Address: 332 Nelson Street

Land Lot: 10840 District: 16 Parcels: 0680

Council Ward: 4A Existing Zoning: R-2 (Single Family Residential 4 units/acre)

**Special Exception / Special Use / Variance(s) Requested:**

1. Variance to reduce the required rear yard setback for a detached garage from 22 ft. to 10 ft.  
[§ 708.02 (F.4)]

### Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

### **Criteria:**

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

**PICTURES**



**332 Nelson Street**



**Proposed area of new structure**



**Proposed area of new structure from Nelson Street**

**Recommended Action:**

***Approval, with conditions.*** The property owners and applicants, George and Linda Brown, are requesting a variance for the property located at 332 Nelson Street that would allow them to reduce the rear yard setback for a detached garage from 22 feet to 10 feet. The area of the property is 0.511 acres, and is zoned R-2 (Single-Family Residential); as are all abutting properties.

The zoning ordinance states “Accessory structures greater than 15 feet in height, but less than 35 feet in height, must be set back at least 10 feet from the side property line, must be set back from the rear property line a distance of 30 feet or a distance equal to the height of the structure, whichever is less.”

The lot size of the subject property is 0.5 acres, and all adjacent lots are even larger. The property owners to the rear of the subject property have a 0.69 acre lot, and their home is quite a distance away from the location of the proposed garage. These property owners would be most directly affected by the new garage, and they have signed a letter indicating that they understand that the height of the proposed garage will be 22 feet, and that they have no objection to the height increase.





Department of Development Services  
205 Lawrence Street  
Marietta, Georgia 30060  
Brian Binzer, Director

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The property owner should be aware that the Fire Marshall's Office will require that the unfinished second floor bonus room must comply with the City's sprinkler ordinance. Since the proposed location is the most logical place for the garage, and the neighbor has no objection, **staff recommends approval of this variance with the condition that the sprinkler system be added due to the second floor unfinished bonus.**